

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA**

NOAH WOLF, individually and on behalf of)
all others similarly situated,)

Plaintiff,)

CASE No. 5:11-cv-00058-D

v.)

WILLIAM D. JOHNSON, JOHN H. MULLIN)
III, E. MARIE MCKEE, CARLOS A.)
SALADRIGAS, JAMES E. BOSTIC JR.,)
THERESA M. STONE, W. STEVEN JONES,)
ALFRED C. TOLLISON JR., HARRIS E.)
DELOACH JR., CHARLES W. PRYOR JR.,)
ROBERT W. JONES, JAMES B. HYLER JR.,)
JOHN D. BAKER II, MELQUIADES R.)
MARTINEZ, DUKE ENERGY CORP.,)
DIAMOND ACQUISITION AND CORP.,)
AND PROGRESS ENERGY CORP.)

Defendants)

NOTICE OF VOLUNTARY DISMISSAL

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(a), Plaintiff Noah Wolf, through his counsel, hereby dismisses his individual action, captioned *Noah Wolf v. Johnson, et. al.*, Case No. 5:11-cv-00058-D (the “Wolf Action”), on the terms set forth below.

WHEREAS, on January 10, 2011, Progress Energy Corp. (“Progress” or the “Company”) announced that the Company had entered into a definitive merger agreement with Duke Energy Corp. and Diamond Acquisition Corp. (collectively “Duke”), pursuant to which Duke will acquire all of the outstanding shares of Progress in an all-stock transaction whereby Progress stockholders will receive 2.6125 shares of Duke’s common stock in exchange for each share of Progress common stock;

WHEREAS, on February 10, 2011, Plaintiff Noah Wolf filed this action against Progress Energy, the Progress Energy Board of Directors and Duke (the “Defendants”);

WHEREAS, Defendants have neither filed an Answer, or a Motion for Summary Judgment;

WHEREAS, Plaintiff now seeks to voluntarily dismiss the Wolf Action against all Defendants, without prejudice as to Plaintiff;

WHEREAS, the dismissal of the Wolf Action is without prejudice to the remaining members of the putative class and does not purport to bind any other purported class member;

WHEREAS, while Plaintiff styled this action as a class action, class certification has not yet been sought in the present case, and no class has been certified in the present case;

WHEREAS, notice of pendency of the action to the purported class members was never given;

WHEREAS, the putative class is not prejudiced or harmed by the dismissal of the Wolf Action because, among other reasons, there is another class action currently pending in this Court on behalf of the same class Plaintiff Wolf sought to represent, captioned *Galaton v. Johnson, et. al.*, Civ. No. 4:11-cv-00120-D (the “Galaton Action”);

WHEREAS, as a result of a clerical error, the Galaton Action was mistakenly filed in the Wolf Action docket;

WHEREAS, this voluntary dismissal of the Wolf Action is in no way intended to dismiss the claims asserted in the Galaton Action;

WHEREAS, the parties have met and conferred and have agreed to bare their own costs in the Wolf Action;

For the foregoing reasons, Plaintiff voluntarily dismisses the Wolf Action without any prejudice to the purported class or Plaintiff Galaton.

Dated: July 22, 2011



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